

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

<b>LABORERS' PENSION FUND,</b>	)	
<b>LABORERS' WELFARE FUND OF THE</b>	)	
<b>HEALTH AND WELFARE DEPARTMENT</b>	)	
<b>OF THE CONSTRUCTION AND GENERAL</b>	)	
<b>LABORERS' DISTRICT COUNCIL OF</b>	)	
<b>CHICAGO AND VICINITY, THE CHICAGO</b>	)	
<b>LABORERS' DISTRICT COUNCIL RETIREE</b>	)	
<b>HEALTH AND WELFARE FUND, and JAMES</b>	)	
<b>S. JORGENSEN, Administrator of the Funds,</b>	)	
<b>Plaintiffs,</b>	)	<b>Case No.: 16 C 9109</b>
<b>v.</b>	)	
	)	<b>Judge Durkin</b>
<b>ASC INSULATION, FIREPROOFING AND</b>	)	
<b>SUPPLIES, INC., an Illinois corporation, and</b>	)	
<b>SERGIO CASTRO, individually,</b>	)	
<b>Defendants.</b>	)	

**MOTION TO REINSTATE AND CONFESS JUDGMENT**

NOW COME Plaintiffs Laborers' Pension Fund, Laborers' Welfare Fund of the Health and Welfare Department of the Construction and General Laborers' District Council of Chicago and Vicinity, the Chicago Laborers' District Council Retiree Health and Welfare Fund, and James S. Jorgensen, Administrator of the Funds (collectively, "the Funds"), by and through their attorney, Patrick T. Wallace, and hereby move this Court to reinstate this case and enter judgment on the amounts due on the accelerated Installment Note reached in settlement of this case. In support of this Motion, Plaintiffs state as follows:

1. On April 25, 2017, this matter was dismissed without prejudice and with the Court retaining jurisdiction up and through April 30, 2019 to enforce the terms of the Parties' Settlement Agreement. The Settlement Agreement, Installment Note, and Guaranty of Payment

and Indemnification entered into by the Parties are attached hereto as Exhibits A, B and C, respectively.

2. Paragraph 9 of the Installment Note requires the Company to stay current on all obligations with the Funds and the District Council for the duration of the Note and further provides that the Funds can accelerate and collect all amounts due on the Note if the Company fails to stay current on its obligations to the Funds and the Union.

3. ASC has failed to submit and pay dues reports for the period of December 2017 forward and has failed to submit and pay benefit reports for the period of April 2018 forward. See Affidavit of Mike Christopher ("Christopher Aff.") attached hereto as Exhibit D, Paragraph 3. In addition, audits of ASC Insulation's books and records for the period of November 1, 2015 through February 28, 2018 have revealed substantial unpaid benefit contributions and dues owed to the Chicago Laborers' Funds, the Fox Valley Laborers' Funds and the Construction and General Laborers' District Council of Chicago and Vicinity. The audits were mailed out to the Company and counsel for the Company and in response to the audits, the Company does not dispute liability but instead has requested to be placed on a new Installment Note. In order to be placed on a new Installment Note, the Company was required to pay off the Installment Note reached in resolution of this case. However, Defendant has been unable to pay off the Installment Note and has not cured its outstanding delinquencies.

4. The Company is in default on the Installment Note and Plaintiffs are within their right to reinstate this case and request that the Court enter judgment on the balance due on the Note. In addition, Plaintiffs are entitled to their attorneys' fees and expenses incurred in bringing this Motion.

5. The Company owes \$96,999.87 on the Installment Note. See Affidavit of Mike Christopher, attached hereto as Exhibit D, Paragraph 2. In addition, the Funds have incurred \$4,094.00 in attorneys' fees and expenses to enforce the terms of the Settlement Agreement and Installment Note. See Declaration of Patrick T. Wallace, attached hereto as Exhibit E.

WHEREFORE, Plaintiffs respectfully request that this Court reinstate the case and enter judgment in favor of the Funds and against Defendants ASC Insulation, Fireproofing & Supplies, Inc. and Sergio Castro, jointly and severally, in the amount of \$101,093.87.

Respectfully submitted,

May 17, 2018

Laborers' Pension Fund, et al.

By: /s/ Patrick T. Wallace

Office of Fund Counsel  
111 West Jackson Boulevard  
Suite 1415  
Chicago, IL 60604  
(312) 692-1540

**CERTIFICATE OF SERVICE**

The undersigned certifies that he caused copies of the foregoing Motion to Reinstate and Confess Judgment to be served upon the following person via the Court's electronic notification system this 17<sup>th</sup> day of May 2018.

Todd A. Miller  
Allocco, Miller & Cahill, P.C.  
20 N. Wacker Drive, Suite 3517  
Chicago, IL 60606

By: /s/ Patrick T. Wallace